



Journal of the House

State of Indiana

116th General Assembly

First Regular Session

Thirteenth Meeting Day

Monday Afternoon

February 2, 2009

The invocation was offered by Pastor Shan Rutherford, Greenwood Christian Church.

The Pledge of Allegiance to the Flag was led by Representative W. Trent VanHaaften.

The House convened at 1:30 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker ordered the roll of the House to be called:

Austin	Kersey ☐
Avery	Klinker
Bardon	Knollman
Barnes	Koch
Bartlett	L. Lawson
Battles	Lehe
Behning	Lehman
Bell	Leonard
Bischoff	Lutz
Blanton	McClain
Borders	Messmer
Borror	Michael
Bosma	Moseley ☐
C. Brown	Moses
T. Brown	Murphy
Burton	Neese
Candelaria Reardon	Niezgodski
Cheatham	Noe
Cherry	Oxley
Clements	Pearson
Clere	Pelath
Crawford	Pflum
Crouch	Pierce
Culver	Pond
Davis	Porter
Day	Pryor
DeLaney	Reske ☐
Dembowski	Richardson
Dermody	Riecken
Dobis	Robertson
Dodge	Ruppel
Duncan	Saunders
Dvorak	M. Smith
Eberhart	V. Smith
Espich	Soliday
Foley	Stemler
Friend	Steuerwald
Frizzell	Stevenson
Fry	Stilwell
GiaQuinta	Sullivan
Goodin	Summers
Grubb	Thompson
Gutwein	Tincher
Harris	Torr
Herrell	Truitt
Hinkle	Turner

Tyler
VanDenburgh
VanHaaften
Walorski

Welch
Wolkins
Yarde
Mr. Speaker

Roll Call 24: 97 present; 3 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, February 3, 2009, at 1:00 p.m.

BISCHOFF

The motion was adopted by a constitutional majority.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bill 285 and the same is herewith transmitted to the House for further action.

JENNIFER L. MERTZ

Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 14

Representative Grubb introduced House Concurrent Resolution 14:

A CONCURRENT RESOLUTION honoring the Riverton Parke High School Cheer Team for winning the Hoosier Cup Title.

Whereas, Cheerleading is a sport dating back to 1898 that encourages competition and team spirit, and inspires spectators at sporting events

Whereas, The Riverton Parke High School Cheer Team placed first at the National Hoosier Cup championships; and

Whereas, The squad members are: Haley Archer, Chelsea Butler, Courtney Butler, Amber Ellis, Kaila Higgins, Kelcee Hudson, Amanda Johnson, Chelsea Lowe, Lucy Miller, Katelynn Rewers, Jade Tagney, Wes Thomas, Katie Vanduyne, Toby Voorhies, Jesi Wood: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly honor the Riverton Parke High School Cheer Team.

SECTION 2. That the Principal Clerk of the Indiana House of Representatives shall transmit a copy of this resolution to the Cheer Team, along with Individual certificates.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Skinner.

House Concurrent Resolution 15

Representative V. Smith introduced House Concurrent Resolution 15:

A CONCURRENT RESOLUTION celebrating Black History Month.

Whereas, Black history has been celebrated by Americans each year since 1926, first as Negro History Week and later as Black History Month;

Whereas, Blacks have been in America since colonial times, but it was not until the 20th century that they were represented in history books;

Whereas, The celebration of Black History Month and the study of black history came into being through the efforts of Dr. Carter G. Woodson;

Whereas, Dr. Woodson's parents were former slaves, and he spent his childhood working in the Kentucky coal mines;

Whereas, Dr. Woodson enrolled in high school at age 20, graduated within two years, and went on to earn a Ph.D. from Harvard University;

Whereas, Dr. Woodson was disturbed to find that history books largely ignored the black American population and mentioned blacks only in ways that reflected the inferior social position they were assigned at the time;

Whereas, Dr. Woodson began the task of writing Black Americans into the nations history;

Whereas, Through the efforts of Dr. Woodson, several organizations were established as a way to bring national attention to the contributions of black people throughout American history, including the Association for the Study of Negro Life and History, founded in 1915 (now known as the Association for the Study of African American Life and History), the Journal of Negro History (now known as the Journal of African American History), and in 1926, the establishment of Negro History Week;

Whereas, Dr. Woodson chose the second week of February for Negro History Week because it marks the birthdays of two men who greatly influenced the black American population: Frederick Douglass and Abraham Lincoln;

Whereas, Black History Month, celebrated in February, acknowledges the achievements of blacks in the military, the arts, civil rights, education, entertainment, history, law, literature, medicine, music, politics, science, sports and other areas;

Whereas, Black History Month aims to bridge the gap created by American history's failure to accurately acknowledge, portray, and record the contributions and inventions of blacks; and

Whereas, Black Americans reflect a legacy of courage and dedication that has helped to guide our nations success and prosperity: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly acknowledges the many contributions and accomplishments of black Americans throughout the history of the United States and Indiana.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Rogers, Breaux, Randolph, and Taylor.

House Concurrent Resolution 16

Representative Cheatham introduced House Concurrent Resolution 16:

A CONCURRENT RESOLUTION honoring the Southwestern High School Marching Band.

Whereas, On November 1, 2008, the Southwestern Rebel Regiment Marching Band, Hanover, Indiana, ended its 2008 marching season at the Midstates Class A Championship, winning the coveted best music, best visual, and best general effects awards;

Whereas, This feat is made even more impressive considering the size of the Rebel Regiment - marching only 26 members;

Whereas, The Rebel Regiment has won the Midstates Class A Championship three of the last four years, winning in 2005, 2007, and 2008;

Whereas, The nine senior members of the band have provided a great deal of leadership and inspiration to the band's underclassmen;

Whereas, The Rebel Regiment Marching Band also placed first in the Kings Invitational, the Columbus North High School competition, the Hamilton Southeastern competition, and the LaSalle Invitational;

Whereas, Band director Ruth Nickels deserves special accolades for leading this "small but mighty" band to such levels of excellence; and

Whereas, It is fitting that the accomplishments of the Southwestern Rebel Regiment Marching Band be given additional recognition: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly congratulates the Southwestern High School Rebel Regiment Marching Band on its outstanding season and encourages band members to maintain this level of excellence in all that they do.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Ruth Nickels, band director, each member of the Southwestern High School band, and Jeff Bates, principal of Southwestern High School.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Lewis.

House Resolution 10

Representatives Gutwein and Klinker introduced House Resolution 10:

A HOUSE RESOLUTION thanking Purdue University's Agricultural and Biological Engineering Department for its continued work in the area of drainage water management and encouraging organizations that assist Indiana farmers to inform farmers of the benefits of drainage water management systems.

Whereas, Throughout the years, Purdue University has always been at the forefront of breakthroughs in the areas of drainage water management, watershed management, and crop research;

Whereas, The Agronomy Farm, now known as the Agronomy Center for Research and Education (ACRE), was established in 1949 as a field research station for agronomic crops and soils research for the Agronomy Department and other departments working on field crops;

Whereas, At ACRE, Purdue University and United States Department of Agriculture researchers conduct 180 studies ranging from basic to applied research;

Whereas, These studies include plant breeding and genetics, crop production and soil tillage management, plant physiology, soil fertility, weed control, disease and insect resistance and control, and variety performance evaluation for corn, soybeans, small grains, sorghum, and alfalfa;

Whereas, The benefits achieved through drainage water management include improved trafficability, reduced soil compaction, reduced topsoil loss, more nutrients being retained in the soil, and additional water retention for crops resulting in improved crop yields;

Whereas, Fields with drainage water management systems have reduced annual nitrate loads from drains from 15% to 75% and reduced the amount of phosphates that leave the fields, resulting in lower quantities of nitrates and phosphates entering Indiana's streams and rivers; and

Whereas, Drainage water systems have been designed to be easily managed, affordable, and able to be incorporated into many existing field tile systems: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives thanks the Purdue University Agricultural and Biological Engineering Department for its continued work in the area of drainage water management and encourages organizations that assist farmers in Indiana to inform farmers of the benefits of drainage water management systems.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Southeast Purdue Agricultural Center (SEPAC), the Purdue Cooperative Extension Office, the Indiana Farm Bureau, Inc, the Indiana Soybean Board, and the Indiana Corn Growers Association.

The resolution was read a first time and adopted by voice vote.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1036, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1076, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-29-3-12, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. The board shall organize the board's staff to provide for the functions of:

- (1) unit determination;
- (2) unfair labor practice processing;
- (3) conciliation and mediation;
- (4) factfinding;
- (5) **mediation and final offer selection;** and

~~(5)~~ (6) research.

SECTION 2. IC 20-29-3-13, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. In connection with conciliation and mediation, ~~or~~ factfinding, **or mediation and final offer selection**, the board may:

- (1) use full-time employees; or
- (2) appoint employees for specific cases from a panel the board establishes.

SECTION 3. IC 20-29-6-6, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The obligation to bargain collectively does not include the final approval of a contract concerning any items. Agreements reached through collective bargaining are binding as a contract only if ratified by the governing body of the school corporation and the exclusive representative. The obligation to bargain collectively does not require the school employer or the exclusive representative to agree to a proposal of the other or to make a concession to the other. **The obligation to bargain collectively is subject to the final offer process if mediation and final offer selection is elected under section 12(b) of this chapter.**

SECTION 4. IC 20-29-6-12, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. **(a)** Collective bargaining between a school ~~corporation~~ **employer** and the exclusive representative shall begin:

- (1) not later than one hundred eighty (180) days before the ~~submission date of a budget by a school employer; first day of the first term or semester of a school year; and~~
- (2) **when the exclusive representative notifies the school employer and the board of the start of bargaining.**

(b) The school employer and the exclusive representative shall use the collective bargaining procedures set forth in this chapter unless the exclusive representative, at the time an impasse is declared by either party, elects to use the mediation and final offer selection procedure set forth in IC 20-29-8-15 through IC 20-29-8-30.

SECTION 5. IC 20-29-6-14, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. If an agreement has not been reached on the items to be bargained collectively seventy-five (75) days before the ~~submission date of a budget by a school employer; first day of the first term or semester of a school year,~~ the board shall initiate mediation.

SECTION 6. IC 20-29-6-15, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. If an agreement has not been reached on the items to be bargained collectively forty-five (45) days before the ~~submission date of a budget by a school employer; first day of the first term or semester of a school year,~~ the board shall initiate factfinding.

SECTION 7. IC 20-29-6-16, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) If an agreement has not been reached on the items to be bargained collectively fourteen (14) days before the ~~submission date of a budget by a school employer; first day of the first term or semester of a school year,~~ the parties shall continue the status quo, and the school employer may issue tentative individual contracts and prepare its budget on that basis. During this status quo period, in order to allow the successful resolution of the dispute, the school employer may not unilaterally change the terms or conditions of employment that are issues in dispute.

(b) This section may not be construed as relieving the school employer or the school employee organization from the duty to bargain collectively until a mutual agreement has been reached and a contract entered as called for in this chapter."

Page 1, after line 8, begin a new paragraph and insert:

"SECTION 9. IC 20-29-8-11, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. Mediators and factfinders may not be employed on a full-time or part-time basis by:

- (1) a public school employer that is a school corporation; or
- (2) an organization of:
 - (A) public employees; or
 - (B) public employers; or
- (3) affiliates of an organization described in subdivision (2)(A) or (2)(B); or
- (4) a firm that represents public employers or public employees in the implementation of this article.

SECTION 10. IC 20-29-8-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. Sections 16 through 30 of this chapter apply to collective bargaining in which the exclusive representative has elected to proceed under sections 16 through 30 of this chapter and has notified the school employer and the board as provided in IC 20-29-6-12.

SECTION 11. IC 20-29-8-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. In addition to the impasse procedures specified in this chapter, a school employer and an exclusive representative may agree in writing to a dispute settlement procedure. A copy of the agreement shall be filed by the parties with the board. If the parties agree to a form of binding arbitration, the arbitrator shall give weight to the factors listed in section 24 of this chapter. The arbitration award is subject to appeal under sections 26 through 29 of this chapter.

SECTION 12. IC 20-29-8-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. If the parties have not reached an agreement at least sixty (60) days before the first day of the first term or semester of a school year, the parties shall notify the board that an impasse exists, and the board shall initiate mediation and arbitration.

SECTION 13. IC 20-29-8-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. Not later than fifteen (15) days after the board receives notice of an impasse under section 17 of this chapter, each party shall submit to the board and to the other party its final offer on each item remaining at impasse that is also an item listed in IC 20-29-6-4. The parties also shall file with the board a joint stipulation with respect to all matters on which the parties have previously agreed, for inclusion in the new or amended collective bargaining agreement. All final offers and joint stipulations filed with the board are open to public inspection.

SECTION 14. IC 20-29-8-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) Not later than three (3) days after the board receives notice of an impasse under section 17 of this chapter, the board shall submit to the parties a list of five (5) competent and experienced mediator-arbitrators, who must be representatives of the interests of the public, but who may not be employees of the board.

(b) Not later than five (5) days after the parties receive the list of names, the parties shall agree on a name or alternately strike a name from the list until one (1) name remains. The parties shall determine by lot who strikes the first name. The parties shall notify the board of the mediator-arbitrator chosen.

(c) If a mediator-arbitrator has not been chosen through agreement or striking names within the five (5) day limit, the board shall select a mediator-arbitrator from the list.

(d) Upon receipt of notice from the parties or after the

board makes a selection, the board shall formally appoint the mediator-arbitrator and submit to the mediator-arbitrator the final offers and joint stipulation of the parties.

SECTION 15. IC 20-29-8-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. A mediator-arbitrator shall begin mediation not later than ten (10) days after the mediator-arbitrator is appointed under section 19 of this chapter. The final offers of the parties, as transmitted by the board to the mediator-arbitrator, must serve as the mutual basis for mediation and continued negotiations between the parties with regard to issues in dispute that have not been agreed upon by the parties. All mediation sessions under this section or section 21 of this chapter must be private.

SECTION 16. IC 20-29-8-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) For seven (7) successive days after the first mediation session under section 20 of this chapter, the mediator-arbitrator shall mediate the dispute and encourage a voluntary and mutual settlement by the parties. During the first five (5) days of the seven (7) successive day period, either party may unilaterally modify in writing any item in the party's final offer. At the end of the five (5) day period, each party shall certify in writing to the board the changes that have been made in the party's final offer during mediation, with a copy sent to the mediator-arbitrator and to the other party. During the last two (2) days of the seven (7) successive day period, a modification of either party's final offer may be made only with the consent of the other party.

(b) Any modifications made under subsection (a) shall be certified by the parties to the board, with a copy sent to the mediator-arbitrator.

SECTION 17. IC 20-29-8-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. (a) If the parties have failed to reach a voluntary and mutual settlement during the seven (7) successive day mediation period under section 21 of this chapter, the dispute shall be resolved by final offer item by item selections.

(b) Not later than five (5) days after the end of the mediation period and before selecting the final offers, the mediator-arbitrator shall conduct a public hearing to provide an opportunity to both parties to present evidence and argument in support of their final offers.

(c) Not later than ten (10) days after the completion of the hearing, the mediator-arbitrator shall in writing select the final offer that, in the mediator-arbitrator's judgment, is the more reasonable and shall in writing state reasons for the selection. The mediator-arbitrator's selection and the reasons shall be delivered to the board and to each party. The final offers selected, along with the stipulation of items already agreed to, become the agreement between the parties and are final and binding upon the parties, subject to section 23 and sections 26 through 29 of this chapter.

SECTION 18. IC 20-29-8-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. The parties to a mediation under section 20 or 21 of this chapter may voluntarily and mutually agree upon the terms and conditions of a contract at any time.

SECTION 19. IC 20-29-8-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. In making a decision under the final offer selection procedures authorized by section 22 of this chapter, a mediator-arbitrator shall give weight to the following factors:

- (1) Past memoranda of agreement and contracts between the parties.
- (2) Comparison of wages, hours, terms of employment,

and conditions of employment of the school employees involved with those of other employees doing comparable work, giving consideration to factors peculiar to the work involved.

(3) Comparison of wages, hours, terms of employment, and conditions of employment with similar employment in private business and industry.

(4) The average consumer prices for goods and services, commonly known as the cost of living.

(5) The effect on the educational atmosphere or environment.

SECTION 20. IC 20-29-8-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 25. (a)** If an agreement has not been reached on the items to be bargained collectively fourteen (14) days before the first day of the first term or semester of a school year, the parties shall continue the status quo, and the employer may issue tentative individual contracts and prepare a budget based on the individual contracts.

(b) During the status quo period, to permit the successful resolution of the dispute, the employer may not unilaterally change the terms or conditions of employment that are issues in dispute.

(c) This section does not relieve the school employer or the school employee organization from the duty to follow the procedures set forth in this chapter.

SECTION 21. IC 20-29-8-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 26. Not later than fifteen (15) days after the mediator-arbitrator's final offer selection under section 22 of this chapter, either party may petition the circuit or superior court of the county in which the school employer's administrative office is located to set the final offer selection aside. At any time after the fifteen (15) day period, either party may petition the circuit or superior court of the county in which the school employer's administrative office is located to enforce a final offer selection. The court shall hear these matters on an expedited basis and not later than thirty (30) days after the filing of a petition under this section. The court must enforce the final offer selection unless the court finds by a preponderance of the evidence that the decision is:**

- (1) illegal;
- (2) in excess of the mediator-arbitrator's power; or
- (3) procured by fraud, bribery, or corruption.

SECTION 22. IC 20-29-8-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 27. If a court sets aside a final offer selection because of illegality or excess of power under section 26 of this chapter, the selection shall be remanded to the same mediator-arbitrator who heard the selection the first time, subject to the right of a party to appeal an adverse ruling of the court. The mediator-arbitrator has the following choices on remand:**

- (1) Affirm the earlier final offer selection minus any items set aside by the court.
- (2) Make a new determination on the original final offers proposed by the parties after a new hearing or argument, at the discretion of the mediator-arbitrator.

SECTION 23. IC 20-29-8-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 28. If a court sets aside a final offer selection because of fraud, bribery, or corruption under section 26 of this chapter, the selection shall be remanded to the board for an expedited hearing before a new mediator-arbitrator, selected in the same manner as the original mediator-arbitrator, subject to the right of a party to appeal an adverse ruling of the court.**

SECTION 24. IC 20-29-8-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 29. An appeal under section 27 or 28 of this chapter shall be taken in the manner and to the same extent as orders or judgments are taken in a civil action. Because of the appeal's public importance, the appeal shall be advanced on the docket for the consideration of the court.**

SECTION 25. IC 20-29-8-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 30. A party who:**

- (1) fails to implement a final offer selection; or
- (2) appeals a final offer selection and does not ultimately prevail in court;

under this chapter is liable for reasonable attorney's fees, interest on delayed monetary benefits, and other costs incurred in the action.

SECTION 26. IC 20-29-2-17 IS REPEALED [EFFECTIVE JULY 1, 2009]."

Renumber all SECTIONS consecutively.

(Reference is to HB 1076 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 5.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1090, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 9, delete "or person in legal possession".

Page 1, line 14, strike "provided by" and insert "**available to the permittee under**".

Page 2, line 5, delete "provided by" and insert "**available to the passenger under**".

(Reference is to HB 1090 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1107, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

BARNES, Vice Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1125, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, line 41, delete "to provide group health coverage;" and insert ";

Page 6, line 42, after "plan" insert "**entered into**".

Page 7, line 1, delete "." and insert ";

to provide group health coverage for state employees."

Page 7, line 10, after "The" insert "**coverage provided to an active or retired**".

Page 7, line 10, delete "shall provide for payment of the" and insert "**employee under this section must be the same as the**

coverage provided to an active or retired state employee under the state employee health plan."

Page 7, line 11, delete "cost of the coverage as provided in" and insert:

"(3) Notwithstanding".

Page 7, line 12, delete "chapter. However, an active or a retired school corporation" and insert **"chapter:**

(A) the school corporation shall pay for the coverage provided to an active or retired school corporation employee under this section an amount equal to the amount paid by the state for coverage provided to an active or retired state employee under the state employee health plan; and

(B) an active or retired school corporation employee shall pay for the coverage provided to the active or retired school corporation employee under this section an amount equal to the amount paid by an active or retired state employee for coverage provided to the active or retired state employee under the state employee health plan.

(4) The school corporation shall pay any administrative costs of the school corporation's participation in the state employee health plan.

(5) The school corporation shall provide the coverage elected under subsection (b) for at least five (5) years."

Page 7, delete lines 13 through 15.

Page 7, between lines 20 and 21, begin a new paragraph and insert:

"(f) Neither this section nor a school corporation's election to participate in a state employee health plan as provided in this section impairs the rights of an exclusive representative of the certificated or noncertificated employees of the school corporation to collectively bargain all matters related to school employee health insurance programs and benefits."

(Reference is to HB 1125 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1187, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 5.

OXLEY, Vice Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1210, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

Page 3, line 4, after "illness in" insert **"public psychiatry settings in"**.

Page 3, line 15, delete "The loan repayment grants must be used to attract" and insert **"A participant must commit to a full year of service in a public psychiatry setting for each year of loan repayment."**

Page 3, delete line 16.

Page 4, delete lines 3 through 13.

(Reference is to HB 1210 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1214, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

Page 4, delete lines 3 through 8.

Page 4, line 9, delete "(3)" and insert **"(1)"**.

Page 4, line 11, delete "(4)" and insert **"(2)"**.

Page 4, line 13, delete "(5)" and insert **"(3)"**.

Page 4, line 16, delete "(6)" and insert **"(4)"**.

Page 4, delete lines 40 through 42.

Delete page 5.

(Reference is to HB 1214 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1226, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, delete "the" and insert **"an"**.

Page 1, line 13, delete "the".

Page 1, line 13, delete "project" and insert **"projects"**.

Page 1, line 17, delete "the" and insert **"a"**.

(Reference is to HB 1226 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

AUSTIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1311, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning education and to make an appropriation.

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 20-20-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]:

Chapter 37. Hearing Aids for School Corporation Students Program

Sec. 1. As used in this chapter, "fund" refers to the hearing aid fund established by section 2 of this chapter.

Sec. 2. The hearing aid fund is established for the purpose of providing funding to school corporations for payment for hearing aids for hearing impaired students of the school corporation.

Sec. 3. The fund shall be administered by the department.

Sec. 4. The fund consists of appropriations from the

general assembly, gifts, bequests, and other sources of funding.

Sec. 5. The expenses of administering the fund shall be paid from money in the fund.

Sec. 6. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 7. (a) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(b) There is annually appropriated to the department from the fund an amount sufficient for the purposes of this chapter.

Sec. 8. (a) A school corporation may at any time apply to the department for funding from the fund to pay for a hearing aid that is:

(1) prescribed:

(A) by a physician who is licensed under IC 25-22.5; and

(B) to a hearing impaired student of the school corporation; and

(2) prescribed, fitted, and dispensed for the student by an audiologist who is licensed under IC 25-35.6.

(b) The department shall, upon receipt of an application made under subsection (a), provide payment from the fund for the hearing aid.

Sec. 9. The department shall give funding priority to applications under this chapter for students who are less than fourteen (14) years of age.

Sec. 10. (a) The department shall create a hearing aid refurbishing program through which hearing aids that are no longer used by school corporation students and other individuals are collected and refurbished for the use of other individuals.

(b) The department may enter into an agreement with another organization to implement this section.

SECTION 2. [EFFECTIVE JULY 1, 2008 (RETROACTIVE)] There is appropriated to the hearing aid fund established by IC 20-20-37 three million dollars (\$3,000,000) from the higher education commission operating account for purposes of implementing IC 20-20-37, as added by this act.

SECTION 3. An emergency is declared for this act."

Delete pages 2 through 3.

Renumber all SECTIONS consecutively.

(Reference is to HB 1311 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred House Bill 1338, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 12, delete ", plus interest,".

Page 4, line 19, delete ", plus".

Page 4, line 20, delete "interest,".

Page 4, delete lines 22 through 23.

Page 4, line 38, delete ":".

Page 4, line 39, delete "(1)".

Page 4, run in lines 38 through 39.

Page 4, line 40, delete "; or" and insert ".".

Page 4, delete lines 41 through 42.

Page 5, delete lines 1 through 3.

(Reference is to HB 1338 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 5.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1346, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

BATTLES, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred House Bill 1347, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 39 and 40, begin a new paragraph and insert:

"(f) For purposes of subsection (b)(1), "electric utility" does not include the following:

(1) A corporation organized under IC 8-1-13.

(2) A corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13."

Page 2, line 40, delete "(f)" and insert "(g)".

(Reference is to HB 1347 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 4.

MOSES, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1352, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 6, nays 3.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1362, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-31-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. IC 36-8-12-8 (Concerning volunteer firefighters and emergency medical services personnel).

SECTION 2. IC 36-8-12-2, AS AMENDED BY P.L.43-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter:

"Emergency medical services personnel" means health care providers trained to provide pre-hospital emergency services who:

(1) as a result of a written application, have been

elected or appointed to membership in a volunteer fire department; and

(2) have executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the health care providers by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training.

"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.

"Employer" means:

- (1) a political subdivision;
- (2) an individual or the legal representative of a deceased individual;
- (3) a firm;
- (4) an association;
- (5) a limited liability company;
- (6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or
- (7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

- (1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and
- (2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more than twenty thousand dollars (\$20,000).

"Public servant" has the meaning set forth in IC 35-41-1-24.

"Responsible party" has the meaning set forth in IC 13-11-2-191(d).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

- (1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;
- (2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and
- (3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6).

SECTION 3. IC 36-8-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Each unit that has a volunteer fire department shall procure insurance in the name of and for the benefit of each member of the department. However, if a contract or agreement exists between a unit and a volunteer fire department, the contract or agreement must provide for insurance of the volunteer firefighters **and emergency medical services personnel** in the department in the amounts and with the coverages required by this chapter. Unless the contract or agreement stipulates otherwise, all insurance coverage must be under a group plan, rather than in the name of each individual firefighter **and member of the emergency medical services personnel**. Either the unit or the volunteer fire department, according to the contractor agreement, may undertake procurement of required insurance, but in either case,

the costs of coverage must be borne by the unit. If a volunteer fire department serves more than one (1) unit under a contract or agreement, each unit that the department serves shall pay the amount for the insurance coverage determined under the following formula:

STEP ONE: For each census block or other area in a unit that is served by more than one (1) volunteer fire department, divide the population of the area by the number of volunteer fire departments serving the area, and round the quotient to the nearest one thousandth (.001).

STEP TWO: Add the quotients determined under STEP ONE for the unit.

STEP THREE: Determine the sum of the STEP TWO amounts for all of the units served by the same volunteer fire department.

STEP FOUR: Divide the STEP TWO amount for a unit by the STEP THREE amount and round the quotient to the nearest one thousandth (.001).

STEP FIVE: Multiply the costs of the insurance coverage for the volunteer fire department by the quotient determined under STEP FOUR, rounded to the nearest dollar.

(b) A diminution of insurance benefits may not occur under this section because of a change in the insurance carrier or a change as to who actually procures the required insurance.

(c) Each unit that has a volunteer fire department may procure an insurance policy for the benefit of auxiliary groups whose members could be injured while assisting the volunteer firefighters **and emergency medical services personnel** in the performance of their duties.

(d) Each unit that has a volunteer fire department may procure an insurance policy or any other type of instrument that provides retirement benefits as an incentive to volunteer firefighters **and emergency medical services personnel** for continued service.

(e) An insurance policy or other instrument containing any of the provisions authorized by subsection (d) may not be considered in the computation of nominal compensation for purposes of this chapter.

(f) A volunteer firefighter **or member of the emergency medical services personnel** who becomes covered by an insurance policy or other instrument containing any of the provisions authorized by subsection (d) does not thereby become eligible for membership in the public employees' retirement fund under IC 5-10.3.

(g) If a unit fails to provide the insurance for a volunteer firefighter **or member of the emergency medical services personnel** that this chapter requires it to provide, and a volunteer firefighter **or member of the emergency medical services personnel** suffers a loss of the type that the insurance would have covered, then the unit shall pay to that volunteer firefighter **or member of the emergency medical services personnel** the same amount of money that the insurance would have paid to ~~him~~ **the volunteer firefighter or member of the emergency medical services personnel**."

Page 1, line 6, after "firefighter" insert "**or member of the emergency medical services personnel**".

Page 1, line 8, after "firefighter" insert "**or member of the emergency medical services personnel**".

Page 1, line 17, after "weeks." insert "**After July 23, 2009, the weekly indemnity may not be less than the Indiana minimum wage computed on the basis of a forty (40) hour week.**".

Page 2, after line 3, begin a new paragraph and insert:

"SECTION 5. IC 36-8-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The policy of insurance required by section 6 of this chapter must provide for the payment of a sum not less than one hundred fifty thousand dollars (\$150,000) to the beneficiary, beneficiaries, or estate of a volunteer firefighter **or member of the emergency medical**

services personnel if the firefighter or member of the emergency medical services personnel dies from an injury or smoke inhalation occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel or from a cardiac disease event proximately caused within forty-eight (48) hours by or occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(b) The policy of insurance must provide for the payment of a sum not less than one hundred fifty thousand dollars (\$150,000) to the volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel becomes totally and permanently disabled for a continuous period of not less than two hundred sixty (260) weeks as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(c) The policy of insurance must also provide for indemnification to a member of a volunteer fire department who becomes partially and permanently disabled or impaired as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties.

(d) For the purposes of this section, partial and permanent disability or impairment shall be indemnified as a percentage factor of a whole person.

(e) In addition to other insurance provided volunteer firefighters or emergency medical services personnel under this chapter, each unit shall be covered by an insurance policy that provides a minimum of three hundred thousand dollars (\$300,000) of insurance coverage for the liability of all of its the unit's volunteer firefighters or emergency medical services personnel for bodily injury or property damage caused by the firefighters or emergency medical services personnel acting in the scope of their duties while on the scene of a fire or other emergency. The civil liability of a volunteer firefighter or member of the emergency medical services personnel for:

- (1) an act that is within the scope of a volunteer firefighter's duties; or
- (2) the failure to do an act that is within the scope of a volunteer firefighter's duties;

while performing emergency services at the scene of a fire or other emergency or while traveling in an emergency vehicle from the fire station to the scene of the fire or emergency or from the scene of a fire or emergency back to the fire station is limited to the coverage provided by the insurance policy purchased under this subsection. A volunteer firefighter or member of the emergency medical services personnel is not liable for punitive damages for any act that is within the scope of a volunteer firefighter's or member of the emergency medical services personnel's duties. However, if insurance as required under this subsection is not in effect to provide liability coverage for a volunteer firefighter or member of the emergency medical services personnel, the firefighter or member of the emergency medical services personnel is not subject to civil liability for an act or a failure to act as described in this subsection.

SECTION 6. IC 36-8-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A:

- (1) volunteer firefighter, a member of the emergency medical services personnel, or an emergency medical technician working in a volunteer capacity for a volunteer fire department or ambulance company is covered; and
- (2) volunteer working for a hazardous materials response team may be covered;

by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(c) This subsection applies to all units, including counties. All expenses incurred for premiums of the insurance allowed under this section may be paid from the unit's general fund in the same manner as other expenses in the unit are paid."

Renumber all SECTIONS consecutively.

(Reference is to HB 1362 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

TINCHER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1479, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 10, delete "groups." and insert "**and teacher shortage areas.**".

(Reference is to HB 1479 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

OXLEY, Vice Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred House Bill 1487, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 5, delete "one-hundredth" and insert "**one hundred**".

Page 2, line 6, delete "(0.01%)" and insert "**(100%)**".

Page 2, line 22, delete "plaintiffs;" and insert "**plaintiffs or the lessor of the plaintiffs under a valid and subsisting coal lease;**".

(Reference is to HB 1487 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 1.

MOSES, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred House Bill 1493, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1586, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 14, line 27, delete "of:" and insert "**not greater than seventy five dollars (\$75).**".

Page 14, delete lines 28 through 33.
(Reference is to HB 1586 as introduced.)
and when so amended that said bill do pass.
Committee Vote: yeas 9, nays 1.

AUSTIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1606, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1637, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 5, strike "(1) fees collected under IC 24-9-9;".
Page 8, line 6, strike "(2)" and insert "**(1)**".
Page 8, line 9, delete "(3)" and insert "**(2)**".
Page 8, line 20, delete "IC 5-20-1-27," and insert "**IC 5-13-12-12,**".

(Reference is to HB 1637 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 4.

BARDON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred House Bill 1697, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, after line 37, begin a new paragraph and insert:
"SECTION 5. IC 5-28-17-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. This chapter may not be construed to limit the corporation's ability to carry out its responsibilities under this chapter with respect to a business that:**

- (1) the corporation considers to be a small business; and**
- (2) does not meet the definition of a small business set forth in IC 5-28-2-6."**

(Reference is to HB 1697 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

RESKE, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1036, 1214, 1311, 1586, and 1637 had been referred to the Committee on Ways and Means.

Reassignments

The Speaker announced the reassignment of House Bill 1725 from the Committee on Rules and Legislative Procedures to the Committee on Elections and Apportionment.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:20 p.m. with the Speaker in the Chair.

HOUSE BILLS ON SECOND READING

House Bill 1032

Representative Grubb called down House Bill 1032 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1032-1)

Mr. Speaker: I move that House Bill 1032 be amended to read as follows:

Page 3, delete lines 13 through 29, begin a new paragraph and insert:

"SECTION 4. IC 14-38-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) All proceeds derived:

- (1) from or by virtue or by reason of a permit or lease executed or issued under this chapter; or
- (2) from or by reason of any operations under this chapter; shall, after deducting all costs incurred by the department, be paid to the treasurer of state for the use of the division of the department having the custody, control, possession, or authority of or over the real property involved.

(b) Except as provided in subsection (c), the proceeds shall be deposited in the proper fund of the appropriate division of the department.

(c) **Except as provided in subsection (d)**, the proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the state shall be deposited in the state general fund.

(d) The proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the Wabash River (as defined in IC 14-13-6-4) shall be deposited in the Wabash River heritage corridor fund established by IC 14-13-6-23."

(Reference is to HB 1032 as printed January 23, 2009.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

House Bill 1033

Representative Grubb called down House Bill 1033 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1033-1)

Mr. Speaker: I move that House Bill 1033 be amended to read as follows:

Page 1, delete lines 1 through 14.

Page 3, line 5, after "Program." insert "**Not later than November 1 of each year, the department shall submit a report in an electronic format under IC 5-14-6 on its findings under this subdivision to the following:**

- (A) The members of a senate standing committee selected by the president pro tempore of the senate. In selecting a standing committee under this clause, the president pro tempore shall determine which standing committee of the senate has subject matter**

jurisdiction that most closely relates to the electricity, gas, and energy policy jurisdiction of the regulatory flexibility committee.

(B) The members of a house standing committee selected by the speaker of the house of representatives. In selecting a standing committee under this clause, the speaker shall determine which standing committee of the house of representatives has subject matter jurisdiction that most closely relates to the electricity, gas, and energy policy jurisdiction of the regulatory flexibility committee.

(C) The members of the legislative council established by IC 2-5-1.1-1."

Renumber all SECTIONS consecutively.

(Reference is to HB 1033 as printed January 30, 2009.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

House Bill 1063

Representative Avery called down House Bill 1063 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1198

Representative VanDenburgh called down House Bill 1198 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1207

Representative C. Brown called down House Bill 1207 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1207-1)

Mr. Speaker: I move that House Bill 1207 be amended to read as follows:

Page 3, line 3, delete "ten (10)" and insert "**twenty (20)**".
(Reference is to HB 1207 as printed January 28, 2009.)

C. BROWN

Motion prevailed.

HOUSE MOTION (Amendment 1207-2)

Mr. Speaker: I move that House Bill 1207 be amended to read as follows:

Page 3, line 17, delete "Information" and insert "**Calorie and carbohydrate information**".

Page 3, line 21, after "printed" delete "or" insert "**and**".

Page 3, line 21, delete "establishment or" and insert "**establishment. Except for calorie and carbohydrate information, the information required under subsection 2 of this chapter must be**".

(Reference is to HB 1207 as printed January 28, 2009.)

C. BROWN

Motion prevailed.

HOUSE MOTION (Amendment 1207-3)

Mr. Speaker: I move that House Bill 1207 be amended to read as follows:

Page 3, line 35, delete "state general fund." and insert "**following**:"

(1) **The state general fund, if the state department instituted the enforcement action against the food establishment.**

(2) **The general fund of the entity listed under section 5(2) or 5(3) of this chapter that instituted the enforcement action against the food establishment."**

(Reference is to HB 1207 as printed January 28, 2009.)

C. BROWN

Motion prevailed.

HOUSE MOTION (Amendment 1207-4)

Mr. Speaker: I move that House Bill 1207 be amended to read as follows:

Page 2, line 39, delete "JULY 1, 2009]:" and insert "JANUARY 1, 2011]:".

(Reference is to HB 1207 as printed January 28, 2009.)

T. BROWN

The Speaker ordered a division of the House and appointed Representatives Stilwell and Bosma to count the yeas and nays. Yeas 48, nays 49. Motion failed.

HOUSE MOTION (Amendment 1207-5)

Mr. Speaker: I move that House Bill 1207 be amended to read as follows:

Page 2, line 39, delete "JULY 1, 2009]:" and insert "JANUARY 1, 2011]:".

Page 3, after line 39, begin a new paragraph and insert:

"Sec. 6. (a) This section does not apply to a food establishment that intentionally provides the consumer with inaccurate nutritional information.

(b) A food establishment is not liable for providing to an individual an item or unit of food that does not meet the nutritional information made available to the customer if the item or unit of food was prepared as the result of a reasonable variation or mistake.

SECTION 4. IC 34-30-2-84.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 84.4. (Concerning food establishments that prepare food items that do not meet the nutritional information provided to consumers)."**

(Reference is to HB 1207 as printed January 28, 2009.)

T. BROWN

Upon request of Representatives T. Brown and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 25: yeas 48, nays 48. Motion failed. The bill was ordered engrossed.

House Bill 1285

Representative VanHaaften called down House Bill 1285 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1285-1)

Mr. Speaker: I move that House Bill 1285 be amended to read as follows:

Page 24, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 26. IC 20-47-1-3, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) As used in this section, "gaming revenue" has the meaning set forth in IC 36-1-14-1(b).

(b) A political subdivision may donate ~~proceeds from riverboat~~ gaming revenue to a public school endowment corporation under the following conditions:

(1) **the public school endowment corporation retains all rights to the donation, including investment powers.**

(2) **The public school endowment corporation agrees to return the donation to the political subdivision if the corporation:**

(A) **loses the corporation's status as a public charitable organization;**

(B) **is liquidated; or**

(C) **violates any condition of the endowment set by the**

fiscal body of the political subdivision.

SECTION 27. IC 20-47-1-5, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The governing body of a school corporation may donate the proceeds of a grant, a gift, a donation, an endowment, a bequest, a trust, ~~or~~ an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, **or an agreement to share revenue received by a political subdivision under IC 4-35-8.5**, or other funds not generated from taxes levied by the school corporation, to a foundation under the following conditions:

- (1) The foundation is a charitable nonprofit community foundation.
- (2) The foundation retains all rights to the donation, including investment powers, except as provided in subdivision (3).
- (3) The foundation agrees to do the following:
 - (A) Hold the donation as a permanent endowment.
 - (B) Distribute the income from the donation only to the school corporation as directed by resolution of the governing body of the school corporation.
 - (C) Return the donation to the general fund of the school corporation if the foundation:
 - (i) loses the foundation's status as a public charitable organization;
 - (ii) is liquidated; or
 - (iii) violates any condition of the endowment set by the governing body of the school corporation.

(b) A school corporation may use income received under this section from a community foundation only for purposes of the school corporation.

SECTION 28. IC 36-8-1-9.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.2. (a) **Each unit that receives:**

- (1) tax revenue under IC 4-35-8.5; or
- (2) revenue under an agreement to share the tax revenue received under IC 4-35-8.5 by another unit;

shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) **The fund established by subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.**

SECTION 29. IC 36-1-14-1, AS AMENDED BY P.L.2-2006, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This section does not apply to donations of ~~proceeds from riverboat~~ gaming revenue to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, ~~"riverboat"~~ "gaming revenue" means **either of the following:**

- (1) Tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.
- (2) **Revenue received by a unit under IC 4-35-8.5 or an agreement to share revenue received by another unit under IC 4-35-8.5.**

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or ~~riverboat~~ gaming revenue to a foundation under the following conditions:

- (1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

- (A) Hold the donation as a permanent endowment.
- (B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.
- (C) Return the donation to the general fund of the unit if the foundation:
 - (i) loses the foundation's status as a public charitable organization;
 - (ii) is liquidated; or
 - (iii) violates any condition of the endowment set by the fiscal body of the unit."

Renumber all SECTIONS consecutively.

(Reference is to HB 1285 as printed January 30, 2009.)

EBERHART

Motion prevailed. The bill was ordered engrossed.

House Bill 1331

Representative L. Lawson called down House Bill 1331 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1331-1)

Mr. Speaker: I move that House Bill 1331 be amended to read as follows:

Page 2, after line 20, begin a new paragraph and insert:

"SECTION 3. IC 36-9-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A unit may establish a cumulative building or sinking fund or cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

- (1) To purchase, construct, equip, and maintain buildings for public purposes.
- (2) To acquire the land, and any improvements on it, that are necessary for the construction of public buildings.
- (3) To demolish any improvements on land acquired under this section, and to level, grade, and prepare the land for the construction of a public building.
- (4) To acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building.
- (5) To improve or construct any public way or other means of ingress or egress to land acquired for the construction of a public building.

(b) In addition to the purposes described in subsection (a), a cumulative capital improvement fund may be used to purchase body armor (as defined in IC 36-8-4-4.5(a)) for active members of a police department.

SECTION 4. IC 36-9-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A unit may establish cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

- (1) To acquire land or rights-of-way to be used for public ways or sidewalks.
- (2) To construct and maintain public ways or sidewalks.
- (3) To acquire land or rights-of-way for the construction of sanitary or storm sewers, or both.
- (4) To construct and maintain sanitary or storm sewers, or both.
- (5) To acquire, by purchase or lease, or to pay all or part of the purchase price of a utility.
- (6) To purchase or lease land, buildings, or rights-of-way for the use of any utility that is acquired or operated by the unit.
- (7) To purchase or acquire land, with or without buildings, for park or recreation purposes.
- (8) To purchase, lease, or pay all or part of the purchase

price of motor vehicles for the use of the police or fire department, or both, including ambulances and firefighting vehicles with the necessary equipment, ladders, and hoses. (9) To retire in whole or in part any general obligation bonds of the unit that were issued for the purpose of acquiring or constructing improvements or properties that would qualify for the use of cumulative capital improvement funds.

(10) To purchase or lease equipment and other nonconsumable personal property needed by the unit for any public transportation use.

(11) In a county or a consolidated city, to purchase or lease equipment to be used to illuminate a public way or sidewalk.

(12) The fund may be used for any of the following purposes:

(A) To purchase, lease, upgrade, maintain, or repair one

(1) or more of the following:

(i) Computer hardware.

(ii) Computer software.

(iii) Wiring and computer networks.

(iv) Communication access systems used to connect with computer networks or electronic gateways.

(B) To pay for the services of full-time or part-time computer maintenance employees.

(C) To conduct nonrecurring inservice technology training of unit employees.

(13) To purchase body armor (as defined in IC 36-8-4-4.5(a)) for active members of a police department."

(Reference is to HB 1331 as printed January 27, 2009.)

RUPPEL

Motion prevailed. The bill was ordered engrossed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1173

Representative Riecken called down Engrossed House Bill 1173 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 26: yeas 96, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Paul.

The Speaker yielded the gavel to the Deputy Speaker Pro Tempore, Representative Harris.

Engrossed House Bill 1203

Representative Bischoff called down Engrossed House Bill 1203 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 27: yeas 92, nays 4. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Mishler, Walker, Lewis, and R. Young.

Engrossed House Bill 1254

Representative Thompson called down Engrossed House Bill 1254 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 28: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Deig.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed House Bill 1204

Representative Bischoff called down Engrossed House Bill 1204 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 29: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kruse, Deig, Lewis, and R. Young.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 14, 174, 219, 260, 270, 271, 307, and 424 and the same are herewith transmitted to the House for further action.

JENNIFER L. MERTZ

Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that Representative Klinker be added as coauthor of House Bill 1023.

NIEZGODSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pearson be added as coauthor of House Bill 1032.

GRUBB

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Welch and Barnes be added as coauthors of House Bill 1080.

DAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pryor be added as coauthor of House Bill 1081.

DAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1130.

BARNES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Michael, Ruppel, and Davis be added as coauthors of House Bill 1153.

BATTLES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Barnes, Sullivan, and Duncan be added as coauthors of House Bill 1173.

RIECKEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Friend be added as coauthor of House Bill 1191.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Leonard, Robertson, and Cherry be added as coauthors of House Bill 1203.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ruppel, Tincher, and Blanton be added as coauthors of House Bill 1205.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pflum be added as coauthor of House Bill 1218.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Grubb and Friend be added as coauthors of House Bill 1219.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be added as coauthor of House Bill 1244.

HERRELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Tincher and McClain be added as coauthors of House Bill 1258.

RIECKEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Richardson be added as coauthor of House Bill 1266.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ruppel, Blanton, and Michael be added as coauthors of House Bill 1362.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Richardson be added as coauthor of House Bill 1363.

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Neese be added as coauthor of House Bill 1366.

CROUCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Walorski be added as coauthor of House Bill 1429.

BARTLETT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Behning be added as coauthor of House Bill 1462.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1465.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Blanton and Pearson be added as coauthors of House Bill 1493.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Friend be added as coauthor of House Bill 1524.

GOODIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pierce be added as coauthor of House Bill 1535.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Friend and Austin be added as coauthors of House Bill 1586.

VAN DENBURGH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Avery, Riecken, and Crouch be added as coauthors of House Bill 1590.

STILWELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Barnes be added as coauthor of House Bill 1602.

C. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Tyler be added as coauthor of House Bill 1603.

LEONARD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Lehman be added as coauthor of House Bill 1627.

FRY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1653.

AUSTIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative DeLaney be added as author of House Bill 1725.

DE LANEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Murphy be added as coauthor of House Joint Resolution 6.

BARTLETT

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Cheatham, the House adjourned at 4:30 p.m., this second day of February, 2009, until Tuesday, February 3, 2009, at 1:00 p.m.

B. PATRICK BAUER

Speaker of the House of Representatives

CLINTON McKAY

Principal Clerk of the House of Representatives